

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NIGEL FREDRICKS,

Petitioner,

-against-

WARDEN MILLS,

Respondent.

21-CV-4996 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

On April 26, 2021, Petitioner filed a petition for a writ of *habeas corpus* under 28 U.S.C. § 2254, seeking to challenge “an assault case.” (21-CV-3690, ECF No. 1.) The Clerk of Court opened the petition as a new civil action and assigned it docket number 21-CV-3690. By order dated May 17, 2021, the Court granted Petitioner thirty days to file an amended petition. (*Id.*, ECF No. 6.)

On June 4, 2021, Petitioner filed a petition for a writ of *habeas corpus* under 28 U.S.C. § 2254, labeled with docket number 21-CV-3690. The Clerk of Court, however, opened this amended petition as a new civil action under docket number 21-CV-4996. (21-CV-4996, ECF No. 1.)¹ The Court received a letter from Petitioner on June 21, 2021, in which he indicated that he did not intend to file a new action; instead, he requested that the submission in 21-CV-4996 be filed as an amended pleading in 21-CV-3690.

The Court therefore directs the Clerk of Court to: (1) administratively close the action under docket number 21-CV-4996; (2) file the § 2254 petition, which is currently docketed as ECF No. 1 in the action under docket number 21-CV-4996, as an amended petition in the action

¹ Because the amended petition was treated as a new action, the Court directed Petitioner to either pay the \$5.00 filing fee or submit a completed and signed IFP application. (21-CV-4996, ECF No. 2.)

under docket number 21-CV-3690; and (3) file a copy of this order in 21-CV-3690. Petitioner is directed to include docket number 21-CV-3690 on all papers that he submits in support of his petition.

CONCLUSION

The Clerk of Court is directed to: (1) administratively close the action under docket number 20-CV-4996; (2) file the § 2254 petition, which is currently docketed as ECF No. 1 in the action under docket number 21-CV-4996, as an amended petition in the action under docket number 21-CV-3690; and (3) file a copy of this order in 21-CV-3690.

The Clerk of Court is further directed to mail a copy of this order to Petitioner and note service on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: June 23, 2021
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge